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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA

No. 3-09-70315-BZ

v.

STIPULATION AND ~~PROPOSED~~  
ORDER DOCUMENTING WAIVER

JULIO HERNANDEZ,

Defendant.

With the agreement of the parties, and with the consent of the defendant, the Court enters this order vacating the preliminary hearing date of June 12, 2009, setting a new preliminary hearing date on June 26, 2009, at 9:30 a.m., before the duty magistrate judge, extending the time for the preliminary hearing under Federal Rule of Criminal Procedure 5.1, and excluding time under the Speedy Trial Act from the date of this stipulation to June 26, 2009. The parties agree and stipulate, and the Court finds and holds, as follows:

1. The defendant, Julio Hernandez, was charged in a complaint dated April 3, 2009 with one count of conspiracy to commit murder in aid of racketeering, one count of conspiracy to

1 commit assault with a dangerous weapon in aid of racketeering, and one count of using or  
2 possessing a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. §§  
3 1959(a)(5) and (a)(6), 924(c), and 2. Hernandez was transferred into federal custody on April  
4 10, 2009, and presented to Magistrate Judge Maria-Elena James on that day. On April 14, 2009,  
5 Hernandez appeared before Magistrate Judge Bernard Zimmerman and Gilbert Eisenberg, Esq.,  
6 was appointed to represent him. The defendant waived his right to seek bail without prejudice to  
7 any future bail applications, and Judge Zimmerman also scheduled a preliminary hearing date for  
8 April 17, 2009. The defendant remains detained pending further proceedings.

9         2. Following the appointment of Mr. Eisenberg, the parties have been conferring  
10 regarding possible dispositions of this matter, and as a result, the Court, at the request of both  
11 parties, extended the initial preliminary hearing date, first until May 8, 2009, and then, at the  
12 request of the parties, a second time until June 12, 2009. Since then, the parties' have continued  
13 to pursue their discussions with the goal of reaching a disposition prior to the filing of formal  
14 charges against the defendant. They have not yet been able to finalize these discussions,  
15 however, and accordingly, the parties have asked the Court to extend the preliminary hearing  
16 date to June 26, 2009, pursuant to Federal Rule of Criminal Procedure 5.1, and excluding the  
17 time under the Speedy Trial Act, 18 U.S.C. § 3161.

18         3. Taking into the account the public interest in the prompt disposition of criminal  
19 cases, the above-stated ground is good cause for extending the time limit for a preliminary  
20 hearing under Federal Rule of Criminal Procedure 5.1, for the filing period for an indictment,  
21 and for excluding time under the Speedy Trial Act. Failure to grant the continuance would deny  
22 the defense time for effective preparation and for seeking disposition of this matter on agreed-  
23 upon terms.

24         4. Accordingly, with the consent of the defendant, the Court hereby: (a) vacates the  
25 June 12, 2009 preliminary hearing date and extends the time for a preliminary hearing until June  
26 26, 2009, before the duty magistrate judge, at 9:30 a.m.; and (b) orders that the period from the  
27 date of this order to June 26, 2009 be excluded from the time period for preliminary hearings  
28 under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act calculations under 18

1 U.S.C. § 3161(h)(7)(A) & (B)(iv).

2 SO STIPULATED:

3  
4 DATED: June 11, 2009

/s/  
\_\_\_\_\_  
GILBERT EISENBERG, ESQ.  
Attorney for JULIO HERNANDEZ

6  
7 DATED: June 11, 2009

/s/  
\_\_\_\_\_  
W.S. WILSON LEUNG  
Assistant United States Attorney

8  
9  
10 IT IS SO ORDERED.

11 DATED: June 11, 2009

